

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DR. JEFFERY M. GOLD, M.D.,

Plaintiff,

Case No. 22-cv-10699
Hon. Matthew F. Leitman

v.

MICHIGAN KIDNEY CONSULTANTS, P.C., *et al.*,

Defendants.

/

**ORDER GRANTING PLAINTIFF LEAVE
TO FILE A FIRST AMENDED COMPLAINT**

On April 1, 2022, Plaintiff Dr. Jeffery M. Gold, M.D. filed this action against Defendants Michigan Kidney Consultants, P.C. and others. (*See* Compl., ECF No. 1.) Dr. Gold alleges, among other things, that Defendants violated “anti-retaliation provisions of Michigan Medicaid False Claims Act, MCL § 400.610c; the False Claims Act, 31 USC § 3730; the Elliott-Larsen Civil Rights Act (“ELCRA”); and 42 USC § 1981.” (Compl. at ¶1, ECF No. 1, PageID.2.)

On May 17, 2022, Defendants filed a motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(6). (*See* Mot., ECF No. 16.) One of bases for dismissal is that Dr. Gold has failed to plead sufficient facts to state viable claims under the Supreme Court’s decisions in *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009),

and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). (See, e.g., Mot., ECF No. 16, PageID.94, 96-98, 100-102.)

Without expressing any view regarding the merits of the motion to dismiss, the Court will grant Dr. Gold the opportunity to file a First Amended Complaint in order to remedy the alleged deficiencies in his allegations identified by Defendants in the motion to dismiss. The Court does not anticipate allowing Dr. Gold another opportunity to amend to add factual allegations that he could now include in his First Amended Complaint. Simply put, this is Dr. Gold's opportunity to allege any and all additional facts, currently known to him, that may cure the alleged deficiencies in his claims.

By June 20, 2022, Dr. Gold shall file a notice on the docket in this action notifying the Court and Defendants whether he will amend his Complaint. If Dr. Gold provides notice that he will be filing a First Amended Complaint, he shall file that amended pleading by no later than June 30, 2022. If Dr. Gold provides notice that he will not be filing a First Amended Complaint, he shall respond to Defendants' motion to dismiss by no later than June 30, 2022.

Finally, if Dr. Gold provides notice that he will be filing a First Amended Complaint, the Court will terminate without prejudice Defendants' currently-pending motion to dismiss as moot.

Defendants may re-file a motion to dismiss directed at the First Amended Complaint if they believe that such a motion is appropriate after reviewing that pleading.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: June 7, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 7, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126